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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,315	04/10/2002	Alejandro Berenstein	S63.2-10039	6886

490 7590 04/25/2005

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,315

Applicant(s)

BERENSTEIN ET AL.

Examiner

Sarah K Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation "end segments are formed of a plurality of braided filaments" contradicts the limitations of the independent claim that the end segments are "serpentine." From the disclosure, these two limitations are considered to be different embodiments.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 38,39, and 45-50 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,911,732 to Hojeibane.

Hojeibane discloses a stent in Figure 3 that includes a coil segment (5) that connects two non-coil segments (271,272). Figures 1 and 4 show an example of the non-coiled segments, which are considered to be "serpentine." Hojeibane explains that the stent can be either balloon expandable (column 8, lines 23-25) or self-expandable (column 9, lines 15-17). The coil segment, or connector, is made of thin steel (column 7, line 11). Since the connector (5) is steel and in the shape of a coil, or spring, it is inherently "spring steel."

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 40,41,43,44, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hojeibane.

Regarding claim 40, Hojeibane discloses the segmented stent in Figure 3 to have multiple coil segments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to limit the stent length to include only one coil segment connecting two serpentine segments, as this simple modification would provide a shorter stent that could be implanted in a shorter blood vessel region. This modification involves only a mere reduction in the number of a repetitive component.

Regarding claims 51-53, Hojeibane fails to limit the diameter of the stent to 6 mm and the length to 20 mm. Hojeibane does state that the expanded diameter of the stent is variable (column 5, line 62) and the length can range from 3 cm (30 mm) to 18 cm (column 6, line 57). Applicant admits in the specification (paragraph 69) that the diameter of the stent can range from 1.5 mm to 25 mm and the length of the stent can range from 3 mm to 100 mm. It would have been an obvious matter of design choice to alter the dimensions of the Hojeibane stent, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

1. Claims 42, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hojeibane in view of US Patent No. 6,258,117 to Camrud et al.

Hojeibane includes all the limitations of claims 5 and 6 except for forming the non-coil sections as a braided structure. Camrud discloses other types of multi-

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segment stents (92) in Figures 6 and 7 that are similar to the Hojeibane stent. Both references include segments (12,14,16,18) linked by flexible connecting elements (94,96). Camrud teaches that tubular segments, such as those in Figure 7, can be formed as a woven, or "braided", structure (column 9, line 28). Since both devices are similar in function and structure, one would have been motivated to combine the stents of Hojeibane and Camrud. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a braided segment of Camrud for a serpentine segment of Hojeibane, as this modification requires only a substitution of functionally equivalent structures.

Response to Arguments

4. Applicant's arguments filed 1/10/05 have been fully considered but they are not persuasive. Applicant argues that the segments of Hojeibane are cellular and not "serpentine." Looking at the structure disclosed in Figures 1 and 4, one can see that there are clearly serpentine annular rings forming the non-coiled segments.

5. Applicant's arguments with respect to the combination of Hojeibane and Camrud have been considered but are not persuasive. Both multi-section stents of Hojeibane and Camrud are formed of a plurality of segments linked by flexible connectors. Camrud teaches that such segments can be in the form of a braided tubular element (Figures 6-7) or coil (Figure 8). The braided segment is simply a functionally equivalent substitute for the serpentine element of Hojeibane. Though motivation is not explicitly stated in the references, one would be motivated to combine the structures of Hojeibane and Camrud, since their structures and functions are substantially similar.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,960,796 (Sung et al) discloses an intravascular prosthesis that includes alternating coil segments (111,121) and braided segments (112,122).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

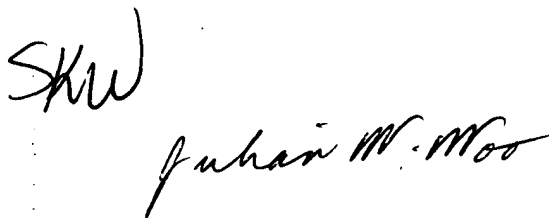
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW
4/12/05

A handwritten signature in black ink, appearing to read "Julian W. Woo". The signature is written in a cursive, flowing style.

JULIAN W. WOO
PRIMARY EXAMINER